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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,943	02/10/2004	Jeremy B. Ross	159803/FLU002	3179

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EXAMINER

LEE, GUNYOUNG T

ART UNIT PAPER NUMBER

2875

DATE MAILED: 08/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/775,943		ROSS, JEREMY B.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Gunyoung T. Lee		2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3-16 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-16 and 21-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                    |                                                                             |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.                                                |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.                                                                        | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "28A" in Fig. 2B; "88" in Fig. 17; and "96B" in Fig. 20. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The specification, exclusive of claims, is more than 20 pages. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Objections***

1. Claims 22 and 23 are objected to because the terms “first point” and “second point” in line 2 of claim 22 and “first and second points” in line 1 of claim 23 are not supported by the specification. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3-5, 6-9 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Griffin et al. (US 5,429,119).
5. In regards to claims 1, 3-5, 6-9 and 13-16, Griffin et al. disclose a hand-held compact diagnostic device having:
  - A rotatable handle portion (Fig. 3, 17, 20 and Fig. 1, 16);
  - A first member (Fig. 3, 32, 31) having a first end (31) and a second end (32), said first end (31) connected to said handle portion (17) (col. 5, lines 40-43);
  - A lightbox (Fig. 3, 26) connected (through 30) to said second end (32), wherein said light box (26) is swivelable relative to said handle portion (Fig. 3) (col. 4, lines 56-64);

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- Wherein said light box (Fig. 3, 26) is rotatable to indexed positions (col. 8, lines 11-16);
- Wherein said handle portion (Fig. 3, 17, 20) is pivotable to fixed positions (col. 4, lines 59-64) (col. 5, lines 36-40).

6. Claims 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Pajean (US 1,763,815).

7. In regards to claims 10 and 11, Pajean discloses a flashlight having:

- A handle portion (Fig. 1, 2) connected to a lightbox (1) by a transverse member (3);
- A switch (Fig. 1, 23, 25) provided on said transverse member (3) and positioned for depression with a thumb of a user grasping the flashlight by the handle portion (Fig. 1) (p. 2, lines 74-82).

8. Claims 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Roberts (US 5,086,377).

9. In regards to claims 21-24, Roberts discloses a flashlight having:

- A light-emitting portion (Fig. 1, 14);
- Wherein said light-emitting portion (Fig. 1, 14) includes a lens (Fig. 2, 90) and a light source (94);
- A handle portion (Fig. 1, 12);

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- A strap (Fig. 1, 82) attached and connected to said flashlight at first and second points (col. 3, line 67 – col. 4, line 4) which are on handle portion (Fig. 1, 12).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Quinn (US 2,588,036) in view of Nichols (US 5,265,781).

12. In regards to claim 12, O'Quinn discloses a pistol-shaped flashlight having:

- A lightbox (Fig. 1, 41);
- A handle portion (Fig. 1, 2);
- A first member (Fig. 1, 3) connecting said handle portion (2) and said lightbox (41).

However, O'Quinn does not expressly disclose a holster including an attachment for attachment to a belt of a user, and a receiving portion for receiving said lightbox of said flashlight while positioning said handle portion external of said receiving portion for access by a user.

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13. In regards to the holster with an attachment and a receiving portion, Nichols discloses a holster (Fig. 1, 20) including an attachment (10) for attachment to a belt of a user (Fig. 5), and a receiving portion for receiving the lightbox (Fig. 1) of the (pistol-shaped) flashlight (col. 5, lines 23-26) while positioning the handle portion (grip of pistol-shaped flashlight) accessible by a user. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the holster as shown in Nichols for the pistol-shaped flashlight of O'Quinn to carry around the flashlight on a user's body for a purpose of easy and fast access to the flashlight when the flashlight is needed especially in a dark area.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brandt (US 6,322,233) shows a flashlight having: a rotatable handle portion (Fig. 3, 50); a first member (18) having a first end (Fig. 1, 22) and a second end (32), the first end (22) is connected to the handle portion (Fig. 3, 5); and a light box (Fig. 1 and Fig. 3, 26) is swivelable (Fig. 1, 30, 34, 36) relative to the handle portion (14, 12).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gunyoung T. Lee whose telephone number is (571) 272-8588. The examiner can normally be reached on 7:30 - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea can be reached on (571) 272-2378. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GTL  
8/1/2005



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